

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1090 be amended to read as follows:

- 1 Page 1, delete lines 1 through 14, begin a new paragraph and insert:
- 2 "SECTION 1. IC 27-7-14 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2009]:
- 5 **Chapter 14. Primary Motor Vehicle Insurance Coverage**
- 6 **Sec. 1. This chapter applies only to policies affording motor**
- 7 **vehicle insurance coverage that are issued or renewed after August**
- 8 **31, 1983.**
- 9 **Sec. 2. (a) The definitions set forth in this section apply**
- 10 **throughout this chapter.**
- 11 **(b) "Garage liability policy" refers to any motor vehicle liability**
- 12 **insurance policy that affords coverage to a named insured engaged**
- 13 **in the business of selling, leasing, repairing, servicing, delivering,**
- 14 **testing, road testing, parking, or storing motor vehicles, but does**
- 15 **not refer to a motor vehicle liability insurance policy that affords**
- 16 **coverage to a vehicle used in the business of transporting property**
- 17 **for hire.**
- 18 **(c) "Motor vehicle insurance coverage" means any type of**
- 19 **insurance coverage described in IC 27-1-5-1, Class 2(f).**
- 20 **(d) "Permittee" means any person who is granted permission to**
- 21 **operate a motor vehicle by the owner of the motor vehicle.**
- 22 **Sec. 3. (a) This section does not apply to cases covered by section**
- 23 **6 or 7 of this chapter.**
- 24 **(b) In any case arising from a permittee's use of a motor vehicle**

for which the owner of the vehicle has motor vehicle insurance coverage, the owner's motor vehicle insurance coverage is considered primary if both of the following apply:

(1) The vehicle, at the time damage occurred, was operated with the permission of the owner of the motor vehicle.

(2) The use was within the scope of the permission granted.

(c) The permittee may not recover under any other motor vehicle insurance coverage available to the permittee until the limit of all coverage available to the permittee under the owner's policy is first exhausted."

Page 2, delete lines 7 through 9, begin a new paragraph and insert:

"Sec. 4. (a) When a claim arises from the operation of a motor vehicle leased under a written lease agreement, if under the agreement the lessee agrees to provide coverage for damage resulting from his operation of the vehicle, then the motor vehicle insurance coverage of the lessee is primary. No claim may be made against any coverage available for the vehicle by the lessor until the limits of the motor vehicle insurance coverage provided by the lessee for the vehicle are exhausted.

(b) When a claim arises from the operation of a motor vehicle that is used in the business of transporting property for hire and leased under a written lease agreement, if under the agreement the lessor and lessee agree as to which coverage of the parties' motor vehicle insurance is primary coverage, then the policy of insurance providing that coverage is primary and no claim may be made against any other coverage for the vehicle until the limits of that policy are exhausted.

Sec. 5. (a) As used in this section, "rental agreement" means a written contract:

(1) that authorizes a renter to use a motor vehicle made available by a rental company;

(2) under which a charge for use of the motor vehicle is made at a periodic rate; and

(3) under which title to the motor vehicle is not transferred to the renter.

(b) When:

(1) a claim arises from the operation of a motor vehicle that is rented under a rental agreement; and

(2) under the rental agreement, the renter agrees to provide insurance coverage for damage resulting from the renter's operation of the motor vehicle;

the insurance coverage provided by the renter is primary.

(c) A claim described in subsection (b) may not be made by the rental company against any insurance coverage available for the motor vehicle until the limits of the insurance coverage provided by the renter are exhausted.

(d) When:

(1) a claim arises from the operation of a motor vehicle that is:

(A) used in the business of transporting property for hire; and

(B) rented under a rental agreement; and

(2) under the rental agreement, the rental company and renter agree as to which of the parties' insurance coverage is primary for damage resulting from the renter's operation of the motor vehicle;

the agreed upon primary insurance coverage is primary.

(e) A claim described in subsection (d) may not be made against any insurance coverage available for the motor vehicle until the limits of the agreed upon primary insurance coverage are exhausted.

Sec. 6. (a) This section applies if the only motor vehicle insurance coverage provided by the owner of the motor vehicle is under a garage liability policy.

(b) Notwithstanding section 3 of this chapter, any coverage available to the permittee is primary.

(c) Recovery may not be made under the garage liability policy until the limits of all coverage available to the permittee have been exhausted.

Sec. 7. (a) This section applies to a motor vehicle while under the control of either of the following:

(1) A bailee.

(2) An agent or employee of a bailee.

(b) As used in this section, "bailee" refers only to a person who is in the business of storing, parking, servicing, or repairing vehicles.

(c) Notwithstanding section 3 of this chapter, any coverage available to the bailee is primary.

(d) Recovery may not be made under the vehicle owner's policy until the limits of all motor vehicle insurance coverage available to the bailee have been exhausted.

SECTION 2. IC 27-8-9 IS REPEALED [EFFECTIVE JULY 1, 2009]

SECTION 3. [EFFECTIVE JULY 1, 2009] (a) IC 27-7-14-3(c), (d), and (e), as added by this act, apply to a case arising after June 30, 2009.

(b) Notwithstanding the repeal of IC 27-8-9-7 by this act, IC 27-8-9-7, before its repeal by this act, applies to a case arising before July 1, 2009.

(c) IC 27-7-14-5, as added by this act, applies to a claim arising after June 30, 2009.

(d) This SECTION expires July 1, 2014."

(Reference is to HB 1090 as printed February 3, 2009.)

Representative Torr